

## DEVELOPMENT AGREEMENT

**THIS DEVELOPMENT AGREEMENT** (herein the “Agreement”) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Lawrence Aposhian, an individual, Red/Gray House, LLC, a Utah limited liability company (collectively “Developers”), for the land to be included in or affected by the project located at approximately 6570-6586 West 3500 South in West Valley City, Utah, and West Valley City, a municipal corporation and political subdivision of the State of Utah (herein the “City”).

### RECITALS

**WHEREAS**, Developers own approximately 2.37 acres of real property located at 6570-6586 West 3500 South in West Valley City, Utah, as described in Exhibit “A” (the “Property”), on which Developers propose to establish minimum standards for a new commercial development (the “Project”); and

**WHEREAS**, Developers have voluntarily represented to the West Valley City Council that they will enter into this binding Development Agreement (the “Agreement”); and

**WHEREAS**, Developers are willing to restrict the property in a manner that is in harmony with the objectives of the City’s master plan and long-range development objectives, and which addresses the more specific development issues set forth in this Agreement, and is willing to abide by the terms of this Agreement; and

**WHEREAS**, the City, acting pursuant to its authority under the Utah Municipal Land Use, Development, and Management Act, U.C.A. §10-9a-101, *et seq.*, and its ordinances, resolutions, and regulations, and in furtherance of its land-use policies, has made certain determinations with respect to the proposed Project, and, in the exercise of its legislative discretion, has elected to approve this Agreement;

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **Affected Property**. The legal description of the Property contained within the Project boundaries is attached as Exhibit “A.” No additional property may be added to or removed from this description for the purposes of this Agreement except by written amendment to this Agreement executed and approved by Developers and the City.

2. **Reserved Legislative Powers.** Nothing in this Agreement shall limit the future exercise of police power by the City in enacting zoning, subdivision, development, transportation, environmental, open space, and related land-use plans, policies, ordinances and regulations after the date of this Agreement, provided that the adoption and exercise of such power shall not restrict Developers' vested rights to develop the Project as provided herein. This Agreement is not intended to and does not bind the West Valley City Council in the independent exercise of its legislative discretion with respect to such zoning regulations.

3. **Compliance with City Design and Construction Standards.** Developers acknowledge and agree that nothing in this Agreement shall be deemed to relieve them from the obligation to comply with all applicable laws and requirements of the City necessary for development of the Project, including the payment of fees, and compliance with the City's design and construction standards.

4. **Specific Design Conditions.** The Project shall be developed and constructed as set forth in the specific design conditions set forth in Exhibit B. The Project shall also comply with all requirements set forth in the minutes of the Planning Commission and City Council hearings on this matter.

5. **Agreement to Run With the Land.** This Agreement shall be recorded in the Office of the Salt Lake County Recorder, shall be deemed to run with the Property, and shall encumber the same; and shall be binding on and inure to the benefit of all successors and assigns of Developers in the ownership or development of any portion of the Property.

6. **Assignment.** Neither this Agreement nor any of the provisions, terms or conditions hereof can be assigned to any other party, individual or entity without assigning also the responsibilities arising hereunder. This restriction on assignment is not intended to prohibit or impede the sale by Developers.

7. **No Joint Venture, Partnership or Third Party Rights.** This Agreement does not create any joint venture, partnership, undertaking or business arrangement between the parties hereto nor any rights or benefits to third parties, except as expressly provided herein.

8. **Integration, Modification, and Entire Agreement.** This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and integrates all prior conversations, discussions, or understandings of whatever kind or nature and may only

be modified by a subsequent writing duly executed and approved by the parties hereto. Exhibits A and B are hereby incorporated into this Agreement.

9. **Notices.** Any notices, requests, or demands required or desired to be given hereunder shall be in writing and should be delivered personally to the party for whom intended, or, if mailed by certified mail, return receipt requested, postage prepaid to the parties as follows:

TO DEVELOPERS:	Lawrence Aposhian 6570 West 3500 South West Valley City, UT 84128
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TO CITY:	West Valley City Wayne Pyle, City Manager 3600 Constitution Blvd. West Valley City, Utah 84119
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Any party may change its address by giving written notice to the other party in accordance with the provisions of this section.

10. **Choice of Law and Venue.** Any dispute regarding this Agreement shall be heard and settled under the laws of the State of Utah. Any Utah litigation regarding this Agreement shall be filed in the Third District Court in Salt Lake City, Utah. Any federal litigation regarding this Agreement shall be filed in the United States District Court for the District of Utah in Salt Lake City, Utah.

11. **Court Costs.** In the event of any litigation between the parties arising out of or related to this Agreement, the prevailing party shall be entitled to an award of reasonable court costs, including reasonable attorney's fees.

12. **Severability.** In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall remain valid and binding upon the parties. One or more waivers of any term, condition, or other provision of this Agreement by either party shall not be construed as a waiver of a subsequent breach of the same or any other provision.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

## MAYOR

CITY RECORDER

By: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me Lawrence Aposhian, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, that the foregoing instrument was signed by him.

Notary Public

**RED/GRAY HOUSE, LLC**

By: \_\_\_\_\_

Title: \_\_\_\_\_

State of \_\_\_\_\_)  
:ss

County of \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me \_\_\_\_\_, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who that he is the \_\_\_\_\_ [title], of Red/Gray House, LLC, a limited liability company, and that the foregoing instrument was signed by him in behalf of said corporation by authority of its bylaws or of a Resolution of its Board of Directors, and he acknowledged to me that said limited liability company executed the same.

\_\_\_\_\_  
Notary Public

## **EXHIBIT A**

### **LEGAL DESCRIPTION**

Parcel # 14-27-476-003

COM 70 RDS W OF SE COR SEC 27, T 1S, R 2W, S L M; N 660 FT; W 165 FT; S 420 FT; E 40 FT; S 75 FT; E 105 FT; S 165 FT; E 20 FT TO BEG. LESS STREET.

1.86 Acres

Parcel # 14-27-476-008

COM 1175 FT W FR SE COR SEC 27, T 1S, R 2W, S L M; W 145 FT; N 240 FT; E 40 FT; S 75 FT; E 105 FT; S 165 FT TO BEG LESS STREET

.51 Acres

## **EXHIBIT B**

### **DEVELOPMENT STANDARDS**

1. Property shall be dedicated to a 106' right-of-way along 3500 South. Dedication must occur within six months of execution of this Agreement.
2. The uses on the Project shall be limited to the following, as defined in Title 7 of the West Valley City Municipal Code:
  - a. Caretaker dwelling incidental to and above or behind a principal commercial use;
  - b. Community use;
  - c. Commercial condominium;
  - d. Day care or preschool;
  - e. Greenhouse or garden supply;
  - f. Medical clinic or doctor's offices;
  - g. Neighborhood grocery;
  - h. Neighborhood service establishment;
  - i. Parking lots;
  - j. Professional office;
  - k. Public utility installation;
  - l. Reception Center as an accessory use to a garden center;
  - m. Restaurant, including on-premise beer retail as part of the restaurant use;
  - n. Retail department or specialty store with no outside storage or display;
  - o. Seasonal fruit/produce vendor stand as a temporary use;
  - p. Shopping center;
  - q. Signs as permitted by Title 11 of the West Valley City Municipal Code;
  - r. Temporary uses as allowed by Section 7-2-115 of the West Valley City Municipal Code; and
  - s. Uses customarily accessory to a use listed by this Exhibit B.